IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

WP(C).No. 970 of 2007(M)

OPEA.14/2005 of MUNSIF COURT, KUTHUPARAMBA
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PETITIONER:

KORANDIKKAVELIL MINI,
W/O.CIBI, KORANDIKKAVELIL, ARALAM,
EDAPPUZHA, THALASSERY, KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN

RESPONDENTS:

KARPPUNKAL JOLY, W/O.SABU,
KAPPUNKAL, ARALAM, P.O.EDAPPUZHA,
THALASSERY, KANNUR DISTRICT.

BY ADV. SRI.M.A.FIROZ
SRI.GEORGE MECHERIL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/09/2007, ALONG WITH WPC NO. 1097 OF 2007 AND OTHER CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE ELECTION PETITION E.O.P.14/2005.

EXT.P2: COPY OF THE COUNTER FILED BY THE RESPODNENT NO.1 IN THE ELECTION PETITION.

EXT.P3: COPY OF THE PETITION I.A. 216/2006 FILED BY THE ELECTION PETITIONER.

EXT.P4: COPY OF THE AFFIDAVIT IN I.A.1917/2006.

EXT.P5: COPY OF THE COUNTER FILED BY THE RESPONDENT NO.1 IN THE ELECTION PETITION, THE PETITIONER.

EXT.P6: COPY OF THE ORDER DATED 11-12-2006 IN I.A.No.1917/2006 IN E.O.P.No.14/2005.

EXT.P7: COPY OF THE PETITION DATED 21.12.2006.

RESPONDENTS EXHIBITS:

EXT.R1: COPY OF THE JUDGMENT DATED 18.8.2006 IN W.P.(C) No.17954 OF 2006 OF THIS HON'BLE COURT.

TRUE COPY

P.A.TO JUDGE

M.N.KRISHNAN,J

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W.P.(C).Nos.970,1097,1113,2821,2842 &
3043 of 2007

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Dated this the 5th day of September, 2007

JUDGMENT

These writ petitions are filed against the order of the learned Munsiff trying election petitions whereby he directed the parties to verify the documents in the presence of the Junior Superintendent to verify the question of double voting. I am afraid that the procedure adopted by the learned Munsiff is incorrect. The learned counsel for the respondents would contented that it was done as conceded by both sides. Whatever it may be it is settled principle of law that secrecy of the ballot has to be maintained as far as possible unless it is absolutely necessary to reveal the identity. In a case of this nature where double voting is the question involved the first fact to be established is that a person's name figures in two wards or two constituencies. The second question to be considered is regarding the identity of said person and that is the very same person's name that figures in both the voters list. The third

question to be considered is whether this person has voted in both the wards or constituencies. The Law lays down that if a person has voted in two wards or constituencies then the said voting itself is void. So the learned Munsiff before proceeding to determine the last question whether a person has voted in two wards has to satisfy himself prim afacie whether that person's name figures in the voters list of two wards and also regarding the identity of the person. When the court is prima facie satisfied about the same then the last stage comes and it is at that stage necessarily the ballot papers have to be verified, checked with the counterfoil to find out whether the same person had voted in two wards. So the court below is directed to proceeded with the trial and after getting satisfied with the evidence adduced that the same person's name figures in two wards and that his identity is established then proceed to the next stage for finding out double voting by resorting to verification of the ballot paper, signature etc. Needless to say that if it is established that the same person has cast his votes in two wards then under law it will be void. So the orders under challenge are set aside and learned Munsiff is directed to follow

the procedure laid down in the previous Paragraph. Being an election petition it is desirable to have an expeditious trial and therefore the learned Munsiff is directed to dispose the matters as expeditiously as possible and not later on three months from today.

The writ petitions are disposed of accordingly.

M.N.KRISHNAN,JUDGE

dvs